

Senate Bill No. 1479

CHAPTER 634

An act to amend Sections 5092, 5094.3, 5550.2, 7074, 7159.5, 7612.6, 7844, and 7887 of the Business and Professions Code, and to amend Section 13995.1 of the Government Code, relating to business and professions.

[Approved by Governor September 25, 2016. Filed with
Secretary of State September 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1479, Committee on Business, Professions and Economic Development. Business and professions.

(1) Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy, which is within the Department of Consumer Affairs. Existing law requires an applicant for licensure as a certified public accountant to provide documentation to the board of the completion of a certain number of units of ethics study, as specified. Existing law requires a portion of those units to come from courses containing specified terms in the course title, including, but not limited to, corporate governance.

This bill would instead require those units to come from courses in specified subjects relating to ethics.

(2) The Architects Practice Act provides for the licensure and regulation of architects and landscape architects by the California Architects Board, which is within the Department of Consumer Affairs, and requires a person to pass an examination as a condition of licensure as an architect. Existing law authorizes the board to grant eligibility to a candidate to take the licensure examination if he or she is enrolled in an Additional Path to Architecture Licensing program that integrates the experience and examination components offered by a National Architectural Accrediting Board-accredited degree program.

This bill would instead authorize the board to grant eligibility to a candidate to take the licensure examination if he or she is enrolled in a degree program accepted by the National Council of Architectural Registration Boards that integrates the licensure degree experience and examination components required under that act.

(3) The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board, which is within the Department of Consumer Affairs. That law requires, except as specified, an application for an original license, an additional classification, or for a change of qualifier to become void when certain conditions are met, including if the applicant or examinee for the applicant has failed to appear for the scheduled qualifying examination and fails to request and pay the

fee for rescheduling within 90 days of notification of failure to appear or if the applicant or the examinee for the applicant has failed to achieve a passing grade in the scheduled qualifying examination and fails to request and pay the fee for rescheduling within 90 days of notification of failure to pass the examination.

This bill would delete those above-mentioned conditions as reasons for an application for an original license, an additional classification, or for a change of qualifier to become void.

With respect to home improvement contracts between an owner or tenant and a contractor, whether a general contractor or a specialty contractor, that is licensed or subject to be licensed with regard to the transaction, existing statutory law makes the failure to comply with specified provisions governing the furnishing of a performance and payment bond a cause for discipline. Existing regulatory law requires a licensee seeking approval of a blanket bond to meet certain conditions and to submit to the board an Application for Approval of Blanket Performance and Payment Bond. Existing regulatory law requires a licensee to be licensed in this state in an active status for not less than 5 years prior to submitting that application.

This bill would instead require such a licensee to be licensed for not less than 2 years prior to submitting that application.

(4) Existing law, the Cemetery and Funeral Act, requires each cemetery authority to annually file with the Cemetery and Funeral Bureau a specified written report that includes information relating to the general and special endowment care funds. Existing law requires the report to be accompanied by an annual audit report of those funds and specifies the scope of the audit.

This bill would require the audit to be prepared in accordance with generally accepted accounting principles.

(5) The Geologist and Geophysicist Act provides for the registration and regulation of professional geologists and professional geophysicists by the Board for Professional Engineers, Land Surveyors, and Geologists, which is within the Department of Consumer Affairs. That act requires an applicant for registration to take an examination and requires the examination to be held at the times and places within the state that the board determines.

This bill would authorize the board to make arrangements with a public or private organization to conduct the examination. The bill would authorize the board to contract with such an organization for materials or services related to the examination and would authorize the board to allow an organization specified by the board to receive, directly from applicants, payments of the examination fees charged by that organization for materials and services.

(6) The California Tourism Marketing Act requires the Governor to appoint a Tourism Selection Committee, as specified, and provides that the Director of the Governor's Office of Business and Economic Development has the power to veto actions of the commission. That act states various findings and declarations by the Legislature regarding the tourism industry in California, including that the mechanism created by that act to fund

generic promotions be pursuant to the supervision and oversight of the secretary.

This bill would instead find and declare that the mechanism to fund generic promotions be pursuant to the supervision and oversight of the Director of the Governor's Office of Business and Economic Development.

The people of the State of California do enact as follows:

SECTION 1. Section 5092 of the Business and Professions Code is amended to read:

5092. (a) To qualify for the certified public accountant license, an applicant who is applying under this section shall meet the education, examination, and experience requirements specified in subdivisions (b), (c), and (d), or otherwise prescribed pursuant to this article. The board may adopt regulations as necessary to implement this section.

(b) An applicant for the certified public accountant license shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects and 24 semester units in business related subjects. This evidence shall be provided prior to admission to the examination for the certified public accountant license, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(c) An applicant for the certified public accountant license shall pass an examination prescribed by the board pursuant to this article.

(d) The applicant shall show, to the satisfaction of the board, that the applicant has had two years of qualifying experience. This experience may include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. To be qualifying under this section, experience shall have been performed in accordance with applicable professional standards. Experience in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy. Experience in private or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy.

(e) This section shall become inoperative on January 1, 2014, but shall become or remain operative if the educational requirements in ethics study and accounting study established by subdivision (b) of Section 5093, Section 5094.3, and Section 5094.6 are reduced or eliminated.

(f) The amendment to subdivision (d) of Section 5094.3 made by the measure adding this subdivision shall not be deemed to reduce or eliminate

the educational requirements of Section 5094.3 for purposes of subdivision (e) of this section.

SEC. 2. Section 5094.3 of the Business and Professions Code is amended to read:

5094.3. (a) An applicant for licensure as a certified public accountant shall, to the satisfaction of the board, provide documentation of the completion of 10 semester units or 15 quarter units of ethics study, as set forth in paragraph (2) of subdivision (b) of Section 5093, in the manner prescribed in this section.

(b) (1) Between January 1, 2014, and December 31, 2016, inclusive, an applicant shall complete 10 semester units or 15 quarter units in courses described in subdivisions (d), (e), and (f).

(2) Beginning January 1, 2017, an applicant shall complete 10 semester units or 15 quarter units in courses described in subdivisions (c), (d), (e), and (f).

(c) A minimum of three semester units or four quarter units in courses at an upper division level or higher devoted to accounting ethics or accountants' professional responsibilities, unless the course was completed at a community college, in which case it need not be completed at the upper division level or higher.

(d) Between January 1, 2014, and December 31, 2016, inclusive, a maximum of 10 semester units or 15 quarter units, and on and after January 1, 2017, a maximum of 7 semester units or 11 quarter units, in the following subjects relating to ethics:

- (1) Business, government, and society.
- (2) Business law.
- (3) Corporate governance.
- (4) Corporate social responsibility.
- (5) Ethics.
- (6) Fraud.
- (7) Human resources management.
- (8) Business leadership.
- (9) Legal environment of business.
- (10) Management of organizations.
- (11) Morals.
- (12) Organizational behavior.
- (13) Professional responsibilities.
- (14) Auditing.

(e) (1) A maximum of three semester units or four quarter units in courses taken in the following disciplines:

- (A) Philosophy.
- (B) Religion.
- (C) Theology.

(2) To qualify under this subdivision, the course title shall contain one or more of the terms "introduction," "introductory," "general," "fundamentals of," "principles," "foundation of," or "survey of," or have the name of the discipline as the sole name of the course title.

(f) A maximum of one semester unit of ethics study for completion of a course specific to financial statement audits.

(g) An applicant who has successfully passed the examination requirement specified under Section 5082 on or before December 31, 2013, is exempt from this section unless the applicant fails to obtain the qualifying experience as specified in Section 5092 or 5093 on or before December 31, 2015.

SEC. 3. Section 5550.2 of the Business and Professions Code is amended to read:

5550.2. Notwithstanding subdivision (b) of Section 5552, the board may grant eligibility to take the licensure examination to a candidate enrolled in a degree program accepted by the National Council of Architectural Registration Boards that integrates the licensure degree experience and examination components required under this chapter. The eligibility point shall be determined by that degree program.

SEC. 4. Section 7074 of the Business and Professions Code is amended to read:

7074. (a) Except as otherwise provided by this section, an application for an original license, for an additional classification, or for a change of qualifier shall become void when:

(1) The applicant or the examinee for the applicant has failed to achieve a passing grade in the qualifying examination within 18 months after the application has been deemed acceptable by the board.

(2) The applicant for an original license, after having been notified to do so, fails to pay the initial license fee within 90 days from the date of the notice.

(3) The applicant, after having been notified to do so, fails to file within 90 days from the date of the notice any bond or cash deposit or other documents that may be required for issuance or granting pursuant to this chapter.

(4) After filing, the applicant withdraws the application.

(5) The applicant fails to return the application rejected by the board for insufficiency or incompleteness within 90 days from the date of original notice or rejection.

(6) The application is denied after disciplinary proceedings conducted in accordance with the provisions of this code.

(b) The void date on an application may be extended up to 90 days or one examination may be rescheduled without a fee upon documented evidence by the applicant that the failure to complete the application process or to appear for an examination was due to a medical emergency or other circumstance beyond the control of the applicant.

(c) An application voided pursuant to this section shall remain in the possession of the registrar for the period as he or she deems necessary and shall not be returned to the applicant. Any reapplication for a license shall be accompanied by the fee fixed by this chapter.

SEC. 5. Section 7159.5 of the Business and Professions Code is amended to read:

7159.5. This section applies to all home improvement contracts, as defined in Section 7151.2, between an owner or tenant and a contractor, whether a general contractor or a specialty contractor, that is licensed or subject to be licensed pursuant to this chapter with regard to the transaction.

(a) Failure by the licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, to comply with the following provisions is cause for discipline:

(1) The contract shall be in writing and shall include the agreed contract amount in dollars and cents. The contract amount shall include the entire cost of the contract, including profit, labor, and materials, but excluding finance charges.

(2) If there is a separate finance charge between the contractor and the person contracting for home improvement, the finance charge shall be set out separately from the contract amount.

(3) If a downpayment will be charged, the downpayment may not exceed one thousand dollars (\$1,000) or 10 percent of the contract amount, whichever is less.

(4) If, in addition to a downpayment, the contract provides for payments to be made prior to completion of the work, the contract shall include a schedule of payments in dollars and cents specifically referencing the amount of work or services to be performed and any materials and equipment to be supplied.

(5) Except for a downpayment, the contractor may neither request nor accept payment that exceeds the value of the work performed or material delivered.

(6) Upon any payment by the person contracting for home improvement, and prior to any further payment being made, the contractor shall, if requested, obtain and furnish to the person a full and unconditional release from any potential lien claimant claim or mechanics lien authorized pursuant to Sections 8400 and 8404 of the Civil Code for any portion of the work for which payment has been made. The person contracting for home improvement may withhold all further payments until these releases are furnished.

(7) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with paragraph (4).

(8) A contractor furnishing a performance and payment bond, lien and completion bond, or a bond equivalent or joint control approved by the registrar covering full performance and payment is exempt from paragraphs (3), (4), and (5), and need not include, as part of the contract, the statement regarding the downpayment specified in subparagraph (C) of paragraph (8) of subdivision (d) of Section 7159, the details and statement regarding progress payments specified in paragraph (9) of subdivision (d) of Section 7159, or the Mechanics Lien Warning specified in paragraph (4) of subdivision (e) of Section 7159. A contractor furnishing these bonds, bond equivalents, or a joint control approved by the registrar may accept payment

prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control. Notwithstanding any other law, a licensee shall be licensed in this state in an active status for not less than two years prior to submitting an Application for Approval of Blanket Performance and Payment Bond as provided in Section 858.2 of Title 16 of the California Code of Regulations as it read on January 1, 2016.

(b) A violation of paragraph (1), (3), or (5) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(1) An indictment or information against a person who is not licensed but who is required to be licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (4) of subdivision (d) of Section 802 of the Penal Code, within four years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.

(2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (2) of subdivision (d) of Section 802 of the Penal Code, within two years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner or tenant of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

SEC. 6. Section 7612.6 of the Business and Professions Code is amended to read:

7612.6. (a) Each cemetery authority shall file with the bureau annually, on or before June 1, or within five months after close of their fiscal year provided approval has been granted by the bureau as provided for in Section 7612.7, a written report in a form prescribed by the bureau setting forth the following:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care by specific periods as set forth in the form prescribed.

(2) The amount collected and deposited in both the general and special endowment care funds segregated as to the amounts for crypts, niches, and grave space by specific periods as set forth either on the accrual or cash basis at the option of the cemetery authority.

(3) A statement showing separately the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall actually show the financial condition of the funds.

(4) A statement showing separately the location, description, and character of the investments in which the special endowment care funds are invested. The statement shall show the valuations of any securities held in the endowment care fund as valued pursuant to Section 7614.7.

(5) A statement showing the transactions entered into between the corporation or any officer, employee, or stockholder thereof and the trustees of the endowment care funds with respect to those endowment care funds. The statement shall show the dates, amounts of the transactions, and shall contain a statement of the reasons for those transactions.

(b) The report shall be verified by the president or vice president and one other officer of the cemetery corporation. The information submitted pursuant to paragraphs (2), (3), (4), and (5) of subdivision (a) shall be accompanied by an annual audit report, prepared in accordance with generally accepted accounting principles, of the endowment care fund and special care fund signed by a certified public accountant or public accountant. The scope of the audit shall include the inspection, review, and audit of the general purpose financial statements of the endowment care fund and special care fund, which shall include the balance sheet, the statement of revenues, expenditures, and changes in fund balance.

(c) If a cemetery authority files a written request prior to the date the report is due, the bureau may, in its discretion, grant an additional 30 days within which to file the report.

SEC. 7. Section 7844 of the Business and Professions Code is amended to read:

7844. (a) Examination for licensure shall be held at the times and places within the state as the board shall determine. The scope of examinations and the methods of procedure may be prescribed by rule of the board.

(b) The board may make arrangements with a public or private organization to conduct the examination. The board may contract with a public or private organization for materials or services related to the examination.

(c) The board may authorize an organization specified by the board to receive directly from applicants payment of the examination fees charged by that organization as payment for examination materials and services.

SEC. 8. Section 7887 of the Business and Professions Code is amended to read:

7887. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a geologist or a geophysicist or certification as a specialty geologist or a specialty geophysicist and for administration of the examination shall be fixed at not more than two hundred fifty dollars (\$250).

(b) The license fee for a geologist or for a geophysicist and the fee for the certification in a specialty shall be fixed at an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, with respect to certificates that will expire less than one year after issuance, the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The duplicate certificate fee shall be fixed at not more than six dollars (\$6).

(d) The renewal fee for a geologist or for a geophysicist shall be fixed at not more than four hundred dollars (\$400).

(e) The renewal fee for a specialty geologist or for a specialty geophysicist shall be fixed at not more than one hundred dollars (\$100).

(f) Notwithstanding Section 163.5, the delinquency fee for a certificate is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date.

(g) Each applicant for licensure as a geologist shall pay an examination fee fixed at an amount equal to the actual cost to the board to administer the examination described in subdivision (d) of Section 7841, unless an applicant pays the examination fee directly to an organization pursuant to Section 7844.

(h) Each applicant for licensure as a geophysicist or certification as an engineering geologist or certification as a hydrogeologist shall pay an examination fee fixed by the board at an amount equal to the actual cost to the board for the development and maintenance of the written examination, and shall not exceed one hundred dollars (\$100).

(i) The fee for a retired license shall be fixed at not more than 50 percent of the fee for filing an application for licensure as a geologist or a geophysicist in effect on the date of application for a retired license.

SEC. 9. Section 13995.1 of the Government Code is amended to read:

13995.1. The Legislature hereby finds and declares all of the following:

(a) Tourism is among California's biggest industries, contributing over fifty-two billion dollars (\$52,000,000,000) to the state economy and employing nearly 700,000 Californians in 1995.

(b) In order to retain and expand the tourism industry in California, it is necessary to market travel to and within California.

(c) State funding, while an important component of marketing, has been unable to generate sufficient funds to meet the threshold levels of funding necessary to reverse recent losses of California's tourism market share.

(d) In regard to the need for a cooperative partnership between business and industry:

(1) It is in the state's public interest and vital to the welfare of the state's economy to expand the market for, and develop, California tourism through a cooperative partnership funded in part by the state that will allow generic promotion and communication programs.

(2) The mechanism established by this chapter is intended to play a unique role in advancing the opportunity to expand tourism in California, and it is intended to increase the opportunity for tourism to the benefit of the tourism industry and the consumers of the State of California.

(3) Programs implemented pursuant to this chapter are intended to complement the marketing activities of individual competitors within the tourism industry.

(4) While it is recognized that smaller businesses participating in the tourism market often lack the resources or market power to conduct these activities on their own, the programs are intended to be of benefit to businesses of all sizes.

(5) These programs are not intended to, and they do not, impede the right or ability of individual businesses to conduct activities designed to increase the tourism market generally or their own respective shares of the California tourism market, and nothing in the mechanism established by this chapter shall prevent an individual business or participant in the industry from seeking to expand its market through alternative or complementary means, or both.

(6) (A) An individual business's own advertising initiatives are typically designed to increase its share of the California tourism market rather than to increase or expand the overall size of that market.

(B) In contrast, generic promotion of California as a tourism destination is intended and designed to maintain or increase the overall demand for California tourism and to maintain or increase the size of that market, often by utilizing promotional methods and techniques that individual businesses typically are unable, or have no incentive, to employ.

(7) This chapter creates a mechanism to fund generic promotions that, pursuant to the required supervision and oversight of the director as specified in this chapter, further specific state governmental goals, as established by the Legislature, and result in a promotion program that produces nonideological and commercial communication that bears the characteristics of, and is entitled to all the privileges and protections of, government speech.

(8) The programs implemented pursuant to this chapter shall be carried out in an effective and coordinated manner that is designed to strengthen the tourism industry and the state's economy as a whole.

(9) Independent evaluation of the effectiveness of the programs will assist the Legislature in ensuring that the objectives of the programs as set out in this section are met.

(e) An industry-approved assessment provides a private-sector financing mechanism that, in partnership with state funding, will provide the amount of marketing necessary to increase tourism marketing expenditures by California.

(f) The goal of the assessments is to assess the least amount per business, in the least intrusive manner, spread across the greatest practical number of tourism industry segments.

(g) The California Travel and Tourism Commission shall target an amount determined to be sufficient to market effectively travel and tourism to and within the state.

(h) In the course of developing its written marketing plan pursuant to Section 13995.45, the California Travel and Tourism Commission shall, to the maximum extent feasible, do both of the following:

(1) Seek advice and recommendations from all segments of California's travel and tourism industry and from all geographic regions of the state.

(2) Harmonize, as appropriate, its marketing plan with the travel and tourism marketing activities and objectives of the various industry segments and geographic regions.

(i) The California Travel and Tourism Commission's marketing budget shall be spent principally to bring travelers and tourists into the state. No more than 15 percent of the commission's assessed funds in any year shall be spent to promote travel within California, unless approved by at least two-thirds of the commissioners.